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020732.173.645 (7495)

REMARKS

The claims pending include claims 1-5, 7-13, 27, 32 and 34.

Rejections of Claims

In the March 21, 2007 Office Action, claims 1-13, 27 and 34 were rejected under 35 U.S.C. §102 (e) as being anticipated by Allison et al. (U.S. Patent Application Publication No. 2003/0217517) (hereinafter Allison. Applicant traverses such rejection.

Claim 1 has been amended to recite the limitations of previously pending claim 7, and recites that the metal agent "includes one of cobalt, palladium, nickel, titanium, zirconium, hafnium, and copper."

Allison does not teach, express or otherwise, the use of a metal chelating agent including one of cobalt, palladium, nickel, titanium, zirconium, hafnium, and copper. Instead, Allison limits the chelating agents to stannous adducts of an organic acid, zinc octoate, bismuth or ferric acetylacetonate.

It is well established, as a matter of law, that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Allison does not satisfy this standard and as such, Allison does not anticipate applicant's claim 1 or the claims depending therefrom.

Moreover, there is no motivation, teaching or suggestion in Allison to select the specific metal agents.¹ All of the metal agents claimed in Allison are transition metals while only two of the four metals disclosed in Allison are transition metals. Moreover, the favored metal, tin, is not a transition metal. One skilled in the art considering Allison would be motivated to consider using a Group IVA metal, not a transition metal. As such, applicant's claimed invention is not obvious in view of Allison.

¹ It is noted that subsequent to the recent Supreme Court decision in *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. 2007), the USPTO issued a memorandum that stated that "the Court did not totally reject the use of 'teaching, suggestion, or motivation' as a factor in the obviousness analysis" and that "in formulating a rejection used 35 U.S.C. §103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have [modified] the prior art elements in the manner claimed" (emphasis in original).

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In conclusion, Allison does not anticipate applicant's claims 1-13, 27 and 34. Applicant respectfully requests withdrawal of said rejection.

Fees Payable

The U.S. Patent and Trademark Office is hereby authorized to charge any additional amount due for entry of this amendment, or credit any overpayments, to Deposit Account No. 13-4365 of Moore & Van Allen PLLC.

Conclusion

Based on the foregoing, claims 1-5, 7-13, 27, 32, and 34 are in form and condition for allowance. If any additional issues remain, the Examiner is requested to contact the undersigned attorney at (919) 286-8090 to discuss same.

Respectfully submitted

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By: _____



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